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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,984	12/28/2000	Dieter Wenninger	BEIERSDORF 687-WCG	9463

7590

09/04/2003

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EXAMINER

ZIRKER, DANIEL R

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 09/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE -3- MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

☒ Responsive to communication(s) filed on 7/1/03

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- ☒ Claim(s) 1-13 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-13 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

### Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

### Attachments

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 5, 7, 9, 10, 12 and 13 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. More particularly, several problems still remain in the claim and the Examiner will attempt to again point them out as best as possible. The comments regarding "is applied" in claim 5 and in claims 7, 9, 12 and 13 the phrase "said application rate" is again repeated for reasons of record, as is the rejection of claims 12 and 13. Additionally, although not a 112 second paragraph rejection the Examiner comments that applicants' use of "adhesive composition" in claims 1, 4, 6, 8 and 9 might more desirably be stated as --adhesive layer--.

3. Claims 1-9 and 11-13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over applicants' admissions in the specification at page 3, lines 10-17 and page 6, lines 9-12 (for claim 8), taken either individually, or alternatively for claim 3 in view of French -316, substantially for the reasons set forth in paragraph Nos. 5 and 6 of Paper No. 12, together with the following additional observations. The Examiner notes that the admission on page 3 of the specification does fail to teach the utilization of "oriented" films, but such films are extremely

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well known in the packaging and related arts. Additionally it is further noted that applicants have failed to comment on the Examiner's prior rejection set forth in paragraph No. 6 of Paper No. 12, so it is again hereby repeated.

4. Claims 1, 2 and 4 are rejected under 35 U.S.C. § 102(b) as being anticipated by Crass et al., substantially for the reasons set forth in paragraph No. 7 of Paper No. 12, together with the following additional observations. With respect to applicants' remarks (Response, page 5, bottom two paragraphs) the Examiner must simply note that the presence of an antiadhesive, i.e. "release" substance in a polymeric layer weakens the "cleavage strength" of the resulting layer. Note particularly Crass at column 2 lines 24-32.

5. Claim 3 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Crass et al. taken in view of French -316, substantially for the reasons set forth in paragraph No. 8 of Paper No. 12. Applicants have not responded to this prior rejection, which contained an inadvertent typo with respect to claim 4, instead of claim 3 being rejected, and so it is hereby repeated; French -316 also being utilized above as showing the particular feature of dependent claim 3.

6. Claim 10 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Freedman, taken either individually, or in view of applicants' admissions in the specification as set forth

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above, substantially for the reasons set forth in paragraph No. 9 of Paper No. 12, together with the following additional observations. With respect to applicants' remarks (Response, page 7) the Examiner again notes that the "oriented" limitation is believed to be well within the ordinary of the art in the adhesive tape and tamper resistant label arts. Additionally, with respect to the motivation for the combination applicants have failed to comment on the examiner's analogous art based rationale, so it is hereby repeated.

7. **THIS ACTION IS MADE FINAL.** Applicants are reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE

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STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Zirker whose telephone number is (703) 308-0031. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Dzirker:cdc

August 27, 2003

DANIEL ZIRKER  
PRIMARY EXAMINER  
GROUP 1300-  
1700

*Daniel Zirker*